

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>7-15-08</u>

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SCANTEK MEDICAL, INC., :

Plaintiff, : 08 Civ. 453 (CM) (HBP)

-against- : ORDER

ANGELA CHEN SABELLA, et al., :

Defendant. :

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PITMAN, United States Magistrate Judge:

A conference having been held on this date during which various discovery disputes were discussed, for the reasons stated on the record in open court, it is hereby ORDERED that:

1. Plaintiff's application to compel Kenneth Sussmane, Esq. to appear for a deposition is denied without prejudice to renewal after other discovery vehicles have been explored. Any renewed application should address the factors relevant to conducting the depositions of adverse counsel enumerated in In re Friedman, 350 F.3d 65 (2d Cir. 2003), and its progeny.

2. Plaintiff's application to compel Angel Chen Sabella to appear in New York for her deposition is granted without prejudice to an application by defendants for a protective order based on the health of Ms. Sabella's parents. If defendants seek a protective

order based on the health of Ms. Sabella's parents, that application is to be made no later than July 22, 2008 and should include affidavits specifically addressing Ms. Sabella's parents' physical conditions, their short-term and long-term prognosis, the specific role Ms. Sabella plays in their day-to-day care, whether anyone is available to provide care during any absence by Ms. Sabella and any other information defendant believes is relevant. A general statement that Ms. Sabella's parent are old and in ill health will not support the issuance of a protective order. The application should also be accompanied by a legible photocopy of Ms. Sabella's passport showing her international travel since November 2006.

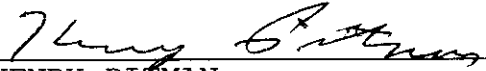
3. Plaintiff's application to compel non-party witness Mark Stepniewski, Esq. to appear for his deposition is denied without prejudice. Any renewed application to compel Mr. Stepniewski's deposition shall be made by formal motion on notice to Mr. Stepniewski.

4. The depositions of Mintz & Fraade, P.C. and its principals shall not take place before September 1, 2008. This Order is without prejudice to the rights of

any party to seek a further Order concerning the depositions of Mintz & Fraade, P.C. and its principals.

Dated: New York, New York
July 15, 2008

SO ORDERED


HENRY PITMAN
United States Magistrate Judge

Copies transmitted to:

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